



*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
25 MARKET STREET  
PO Box 112  
TRENTON, NJ 08625-0112

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

ANDREW J. BRUCK  
*Acting Attorney General*

MICHELLE L. MILLER  
*Director*

August 30, 2021

via CM/ECF Filing Only:

Hon. Renee Marie Bumb, U.S.D.J.  
Mitchell H. Cohen Building  
& U.S. Courthouse  
4th & Cooper Streets  
Camden, NJ 08101

Re: Skelton v. NJ Department of Corrections, et al.  
Civ. Dkt. No. 1:19-cv-18597-RMB-KMW

Dear Your Honor:

Our office represents the active Defendants New Jersey Department of Corrections, Hicks and Powell ("DOC Defendants") in the above-captioned matter. We write relating to Plaintiff's Motion for Leave to File an Amended Complaint, filed August 19, 2021 ("Plaintiff's Motion"). (Dkt. at 30).

Please kindly accept the within letter as an informal response explaining the DOC Defendants' position on Plaintiff's Motion. As is explained below, the DOC Defendants take no position on Plaintiff's Motion to Amend the Complaint. Defendants respectfully asks that the Court to dismiss the case against the DOC Defendants with prejudice, as Plaintiff's Proposed Amended Complaint is not directed to them and Plaintiff has not demonstrated prosecution of any claims against the DOC Defendants.

Position re: Plaintiff's Motion to Amend

The DOC Defendants were previously dismissed by this Court following motion practice. (Dkt. at 21, 22). Now, Plaintiff's Proposed Amended Complaint filed alongside Plaintiffs' Motion does not appear to be lodged against the Defendants undersigned counsel represents. (Dkt. at 30-2). In other words, Plaintiff's Proposed



August 30, 2021

Page 2

Amended Complaint does not seek to reinstate the DOC Defendants as parties.

The DOC Defendants recognize that Plaintiffs' Motion fails to explain the last eight months of silence on this matter, or otherwise demonstrate appropriate cause for such delay. However, as Plaintiff's Proposed Amended Complaint does not seek to reinstate any Defendants represented by this office, the DOC Defendants take no position on Plaintiff's Motion to Amend the Complaint.

Request for Dismissal of DOC Defendants

Finally, Plaintiff was previously forty-five (45) days to file an Amended Complaint in October 30, 2020. (Dkt. at 22). Plaintiff did not file an Amended Complaint within that deadline. Plaintiff's subsequent submissions reference a clerical error in scheduling, but do not explain the months of delay, or whether any action was taken on this matter between October 30, 2020 and June 28, 2021. (Dkt. at 22, 25).

Moreover, Plaintiff can hardly claim that he has prosecuted his claims against the DOC Defendants. Indeed, Plaintiff's Proposed Amended Complaint has removed the DOC Defendants as parties. (Dkt. at 30-2). Thus, the DOC Defendants respectfully ask the Court to dismiss this case against them with prejudice, as the Plaintiff has not provided any reason why this Court should not dismiss this action in response to the Court's Order to Show Cause. (Dkt. at 23, 25, 27); see *Fed. R. Civ. P.* 41(b).

We thank the Court for its kind consideration of the within request.

Respectfully Submitted,

ANDREW J. BRUCK  
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: /s/Michael Vomacka  
Michael Vomacka  
Deputy Attorney General

By: /s/Daniel Shehata  
Daniel Shehata  
Deputy Attorney General

CC:

All counsel of record, via CM/ECF Filing